

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE ARTHUR S. WEISSBRODT, JUDGE

In Re:)	Case No. 07-52890-ASW
)	Chapter 11
THE BILLING RESOURCE, dba)	
Integretel, a California)	
corporation,)	
)	
Debtor.)	
<hr/>		
THE BILLING RESOURCE,)	Adv. No. 07-5156
)	
Plaintiff,)	<u>PLAINTIFF'S MOTION for</u>
)	<u>ORDER to SHOW CAUSE</u>
v.)	<u>REGARDING PRELIMINARY</u>
)	<u>INJUNCTION and DECLARATORY</u>
DAVID R. CHASE, Federal Receiver,)	<u>RELIEF</u>
et al.,)	
)	
Defendants.)	Wednesday, October 17, 2007
<hr/>		San Jose, California

Appearances:

For the Debtor	Michael H. Ahrens, Esq.
and Plaintiff/Movant:	Steven B. Sacks, Esq.
	Sheppard Mullin Richter & Hampton
	Four Embarcadero Center, 17 th Floor
	San Francisco, California 94111
From the Federal Trade	Michael Mora, Attorney
Commission:	600 Pennsylvania Avenue, N.W.
	Washington, D.C. 20580
For POL, Inc.:	Kathryn S. Diemer, Esq.
	Diemer Whitman & Cardosi, LLP
	75 East Santa Clara Street, Suite 290
	San Jose, California 95113-1806
For the Federal	Walter K. Oetzell, Esq.
Receiver, David R.	Danning, Gill, Diamond & Kollitz, LLP
Chase:	2029 Century Park East, Third Floor
	Los Angeles, California 90067-2904

Appearances continued on next page.

Plaintiff's Motion for Order to Show Cause

20

1 THE COURT: Okay. Wait a second. So I would now hold
2 that the district court was wrong, right?

3 MR. SACKS: No.

4 THE COURT: It is property of the estate. How could I
5 hold that it is property of the estate? Would I just ignore the
6 district court order that the property belongs to the receiver?

7 MR. SACKS: Well, --

8 THE COURT: How do I do that?

9 MR. SACKS: There --

10 THE COURT: I would -- now serving as a review court of
11 the district court. If I have to reach the question -- I mean I
12 could certainly say that there -- without a problem, there's no
13 problem -- first of all, I believe they're property of the
14 estate. But, you know, that goes as far as it goes.

15 I could certainly say there are certainly serious
16 questions as to whether it's property of the estate or not. The
17 debtor has raised serious questions. And I now have this
18 district court order which, you know, in my personal opinion is
19 incorrect in that these do appear to be funds that belong to the
20 estate. But now what do I do with that?

21 MR. SACKS: Well, that's the question, is: Did the
22 district court have before it the question that Your Honor is
23 assuming it did. And I don't think -- I don't think it did. It
24 was not looking at the rights of creditors and saying, 'This
25 property belongs to you, federal court receiver, as opposed to